

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF WEST VIRGINIA
AT CHARLESTON

LESLIE TORMAN,

Plaintiff,

v.

CIVIL ACTION NO. 2:07-00438

MICHAEL J. ASTRUE,
Commissioner of Social Security,

Defendant.

MEMORANDUM OPINION AND ORDER

By Standing Order entered August 1, 2006, and filed in this case on July 16, 2007, this action was referred to United States Magistrate Judge Mary E. Stanley for submission of proposed findings and recommendation. Magistrate Judge Stanley submitted her proposed findings and recommendation ("PF & R") on February 25, 2009. (Doc. No. 22.) In that PF & R, the magistrate judge recommended that this court 1) grant the plaintiff's motion to remand (Doc. No. 16); 2) reverse the final decision of the Commissioner; and 3) remand this case to the Commissioner pursuant to the sixth sentence of 42 U.S.C. § 405(g) for further proceedings. (Doc. No. 22 at 8.)

In accordance with the provisions of 28 U.S.C. § 636(b), the parties were allotted ten days, plus three mailing days, in which to file any objections to Magistrate Judge Stanley's PF & R. No party has filed objections within the requisite period, and the failure of any party to file such objections constitutes a waiver

of such party's right to a *de novo* review by this court. Snyder v. Ridenour, 889 F.2d 1363 (4th Cir. 1989); Thomas v. Arn, 474 U.S. 140 (1985).

Having reviewed the PF & R filed by the magistrate judge (Doc. No. 22), the court adopts the findings and recommendations contained therein. Accordingly, the court hereby **REVERSES** the decision of the Commissioner, **GRANTS** plaintiff's motion to remand (Doc. No. 16), and **REMANDS** this case to the Commissioner pursuant to the sixth sentence of 42 U.S.C. § 405(g) for further proceedings as outlined by the magistrate judge. Pending additional action by the parties following the administrative proceedings, the Clerk is **DIRECTED** to remove this case from the court's active docket. See Melkonyan v. Sullivan, 501 U.S. 89, 94 (1991) (court does not enter final judgment under sentence six until postremand proceedings are completed).

The Clerk is further directed to forward a copy of this written Memorandum Opinion and Order to counsel of record.

It is **SO ORDERED** this 30th day of March, 2009.

ENTER:

A handwritten signature in black ink, appearing to read "David A. Faber", is written over a horizontal line.

David A. Faber

Senior United States District Judge